I therefore give judgment for the plaintiff.

I come now to the question of damages. The deceased was born on December 26, 1921, and therefore was just over 36 years old when he died. His widow, the plaintiff, who is now 33 years old by Chinese reckoning, was 30 when she was widowed. The five children of the marriage were 11, 10, 7, 3 years old (reckoned to nearest birthday) and 9 months old when their father and breadwinner died. I think the deceased should have had a natural expectation of life of at least 24 years. His total net income at the time of his death was $418.50, after deduction of Provident Fund contribution. He was a schoolmaster, and his retirement age would be 55. Taking all circumstances into consideration, the uncertainties and vicissitudes of life, I think that 19 years would be a reasonable period during which his dependants could expect to be maintained by him. He used to give his wife $280 to $300 monthly for her own and household expenses, and, in proportion to his earnings, I am satisfied that the plaintiff made no exaggeration. She impressed me as completely honest, and I accept her testimony. Considering that the deceased and his family had rent-free accommodation, which is no longer available, and after deducting what was enjoyed by him out of the monthly household expenses, the loss suffered by his dependants monthly may reasonably be assessed at $220, which is $2,640 per annum. Making all due allowances for the possibility of the widow remarrying, as she is still comparatively young, and for accelerated payment in a lump sum I would assess the damages under section 7 of the Civil Law Ordinance, 1956 at $35,000.

I would apportion this amount as follows:

To the widow - - -	$15,000
To the eldest child - -	2,500
To the second child - -	3,000
To the third child - -	4,000
To the fourth child - -	5,000
To the fifth child - -	5,500
Total:	$35,000

The deceased must have been unconscious till he died, and in the absence of any medical evidence, I make no award of damages for pain and suffering. The amount of damages for loss of expectation of life, which I would assess at $3,000, is of no more than academic interest, as it is merged in the damages recoverable by the family of the deceased. I think the claim for funeral expenses not unreasonable, and as the amount spent was not seriously disputed, I award the sum of $1,000 under this head.

In case this matter should go further resulting in payment being delayed, the damages will carry interest at 6% from date of judgment till satisfaction.

The plaintiff will have the costs of this action.

Judgment for the plaintiff.

Solicitors: *Lovelace & Hastings; Bannon & Bailey.*

KUAN HING WAH v. PUBLIC PROSECUTOR

[A. Cr. J. (Thomson C.J.) April 8, 1960]

[K. L. — Selangor Criminal Appeal No. 14 of 1960]

Criminal Law and Procedure — Possession of suspected stolen property — Suspicion — Minor Offences Ordinance, 1955, s.29(1) — Conviction under.

Before a conviction can be made under section 29(1) of the Minor Offences Ordinance, it must be proved in the first place that the property in possession of which the accused person is found is something "which may be reasonably suspected of being stolen". That suspicion may attach to the property in a number of ways. It may arise from the nature of the property, as where a beggar is found in possession of a diamond ring. It may arise from the behaviour of the accused person, as where he runs away when approached by a police officer. There must, however, be something in the circumstances which gives reasonable ground for suspicion.

In this case the appellant was a man of very bad character with a number of previous convictions. About midnight on January 21 a Police Inspector found a bicycle without its dynamo in Jalan Tallala. For a reason he did not state in evidence the Inspector went straight to the appellant's house and he was found asleep. The Inspector asked him where the dynamo of the bicycle was, but the appellant denied all knowledge of this dynamo and the Inspector and another police officer then searched the house: they found a motor-cycle dynamo at the side of the appellant's bed. The appellant and his brother gave evidence from which it was fairly clear that the appellant's brother had something to do with the theft of the dynamo which was missing from the bicycle found by the police in the street. As regards the motor-cycle dynamo which was in fact found in the possession of the appellant both witnesses agreed that this was given to the appellant by his brother who said he had had it from a friend to be sold.

Held: there was nothing inherently suspicious in being in possession of an old dynamo and in fact that dynamo was not the stolen one for which the police were looking.

MAGISTRATE'S CRIMINAL APPEAL.

Appellant in person.

B. T. H. Lee (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Thomson C.J.: This appellant was convicted in the Magistrates' Court at Kuala Lumpur for possession of property reasonably suspected of having been stolen, in contravention of section 29(1) of the Minor Offences Ordinance, 1955. He was sentenced to one year's imprisonment to be followed by one year's police supervision.

Against that conviction and sentence he has now appealed.

The material portions of section 29(1) of the Minor Offences Ordinance, 1955, read as follows:—

"Any person who has in his possession ..... anything which may be reasonably suspected of being stolen ..... shall, if he fails to account satisfactorily how he came by the same, be liable to ..... imprisonment for a term not exceeding three months .....".

Where, as here, the person convicted under the section has previous convictions for certain offences the maximum period of imprisonment which may be imposed is increased by section

29(5) to two years' imprisonment and this, of course, by reason of section 295 of the Criminal Procedure Code involves liability to an order for police supervision.

Here the prosecution case was that about midnight on 21st January a Police Inspector found a bicycle without its dynamo in Jalan Tallala. For a reason which he did not state in evidence he went straight to the house of the appellant and he found him asleep. He asked the appellant where was the dynamo of the bicycle he had found in the street. The appellant denied all knowledge of this dynamo and the Inspector and another Police Officer then searched the house and found a motor-cycle dynamo at the side of the appellant's bed. The appellant was then arrested.

At his trial the appellant and his brother gave evidence. From that evidence it is fairly clear that the appellant's brother had something to do with the theft of the dynamo which was missing from the bicycle found by the Police in the street. As regards the motor-cycle dynamo which was in fact found in the possession of the appellant both witnesses agreed that this was given to the appellant by his brother who said he had had it from a friend to be sold.

On this the Magistrate convicted the appellant. In my opinion he was wrong.

Before a conviction can be made out under section 29(1) it must be proved in the first place that the property in possession of which the accused person is found is something "which may be reasonably suspected of being stolen". That suspicion may, of course, attach to the property in a number of ways. It may arise from the nature of the property, as where a beggar is found in possession of a diamond ring. It may arise from the behaviour of the accused person, as where he runs away when approached by a Police Officer. There must, however, be something in the circumstances which gives reasonable ground for suspicion. In the present case there was nothing of the sort. There is nothing inherently suspicious in being in possession of an old dynamo and in fact this dynamo was not the stolen one for which the Police were looking.

The truth is that the appellant is a man of very bad character with a number of previous convictions. This was of course kept out of the prosecution case though it was brought to the notice of the Magistrate after conviction. It is quite clear that the Police searched the appellant's premises because they knew he was a bad character and that this was the real basis of their suspicion that anything found in his possession was probably stolen. This, of course, may well have been justification for searching his premises when a partially-stripped bicycle was found nearby but it was no justification for prosecuting him when in fact he was not found in possession of any stolen property or any property which was suspect only by reason of his own bad character.

The conviction is quashed.

Appeal allowed.

Re TAN LAM SUN

[R. Cr. J. (Rigby J.) April 13, 1960]

[Penang — Criminal Revision No. 3 of 1960]

Road Traffic — Weighing of vehicle — Weight in excess of that permitted under condition of permit — Offence brought to light by weighing of vehicle independently of authorisation — Road Traffic Ordinance, 1958, ss.53 and 120(2).

The fact that a vehicle is weighed on an accurate weigh-bridge and that its laden weight is found to be in excess of that permitted under the conditions of the Permit is sufficient to constitute the offence under section 120(2) of the Road Traffic Ordinance, 1958. Whether or not the Enforcement Officer in question was the holder of any valid authority in writing from the Commissioner of Road Transport and whether or not he had required the offender to proceed to the weigh-bridge for the purpose of being weighed were wholly irrelevant to the facts of the case.

REVISION made in Chambers.

Rigby J.: This case has very properly been referred by the learned Magistrate to this Court with a view to revision. The defendant was charged under section 120(2) of the Road Traffic Ordinance, 1958, with contravening the conditions of an Emergency Permit granted to him in respect of goods vehicle P. 2348. Under the conditions of the Permit the maximum laden weight which the vehicle was permitted to carry was 143 cwts. On the day and at the place in question it was, in fact, found that its maximum laden weight was 8 tons 1 cwt.

The brief facts of the case were that acting on information received an Enforcement Officer of the Road Transport Department set out to intercept the defendant's lorry. Either accidentally or by design — and presumably the latter — the Officer did not, in fact, intercept the lorry until it had proceeded to the New Ferry Terminal and was actually standing on the weigh-bridge where it was weighed for the purpose of assessing the fare for the ferry crossing to Butterworth. The Officer stood by while the lorry was, in fact, weighed and he then noticed from the dial on the weigh-bridge that it registered 8 tons 1 cwt. The weighing clerk attached to the Penang Port Commission gave evidence as to weighing the lorry. He described the procedure followed and produced the original weighing ticket which showed the weight of the lorry to be 8 tons 1 cwt. He further produced a certificate of accuracy as to the weigh-bridge itself.

At the close of the case for the prosecution defending Counsel submitted that there was no case to answer since the provisions of section 53 of the Road Traffic Ordinance had not been complied with. That section merely provides that any Road Transport Officer duly authorised in writing in that behalf by the Commissioner of Road Transport so to do, may require any person in charge of any motor vehicle to proceed forthwith to a weigh-bridge for the purpose of being weighed. The Enforcement Officer had apparently produced in evidence a letter purporting to be some form of authority under section 53. The learned Magistrate was satisfied that